

Testimony of Parker Booth

President

Delta Pre-Pack, Inc. and Ace Tomato Co, Inc.

Before the

Subcommittee on Oversight and Investigations

House Committee on

Energy and Commerce

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Introduction

My name is Parker Booth, and I am the president of Delta Pre-Pack Co. Inc. and Ace Tomato Company, Inc. Both entities are part of the Lagorio Family of Companies based in Manteca, California. Today, while farming over 10,000 acres, the Lagorio Family of Companies, still owned and operated by successive generations, is an industry leader for providing safe, fresh and delicious fruits and vegetables in North America and Asia. Of the 10,000 acres farmed, 3,000 acres are planted with tomatoes with the remaining acreage planted with olive trees, walnuts, wine grapes, wheat, and cherries.

Thank you, Chairman Stupak, Ranking Member Shimkus and members of this Subcommittee for the opportunity to testify before you on the topic of traceability within the fresh tomato industry.

I would like to provide insight into how a vertically integrated company handles its food safety program as it relates to traceability. But first I will provide an overview of our two companies.

The primary business of Ace Tomato is the growing, packing and shipping of fresh tomatoes to markets in North America. These tomatoes are grown between the months of July 1st and November 1st in the San Joaquin Valley of California and are of the mature green, vine-ripe, roma and grape varieties. Ace Tomato ships product to various market segments including wholesalers, fresh cut processors, produce distribution companies and repackers while also selling directly to our Delta Pre-Pack operation.

Delta Pre-Pack, in operation since 1985 and also located in Manteca, California, markets an extensive year-round supply of fresh fruits and vegetables. Our Delta Pre-Pack Company is a vertically integrated company that primarily repacks fresh tomatoes into various fruit sizes, pack sizes and stages of ripening. These specifications are dictated by our customers through orders that are given to us prior to packing. Delta Pre-Pack's market segments include export, retail, broadline foodservice suppliers, fresh cut processors, and produce distributors. Delta Pre-Pack sources product from California during the summer months and from Mexico and Florida during the winter months. We have, however, one standard for all tomatoes that we handle whether they are our own or are sourced from other growers in the United States or Mexico. And we employ the same level of traceability on tomatoes that we purchase from others or those we grow in California.

Traceback Protocol

For any trace back program to be effective, there must a strong food safety process in place. Both Delta Pre-Pack and Ace Tomato have a long-established food safety program. We have established dedicated resources to manage and to ensure that we have maximum compliance in all facets of the program. We have a culture within our company that creates and maintains accountability in the maintenance of records both

from within and from our supply chain partners.

The customer base that we supply our products to today requires that we have a robust system that meets not only government regulations but goes higher in terms of food safety requirements. We are members of California Tomato Farmers (CTF), a producers' cooperative formed in 2006, which has adopted mandatory good agricultural practices and requires government inspections on our farming and packing operations. There is no margin for error under these standards. If at any time any facet of our operations is found by the inspectors of the California Department of Food and Agriculture (CFDA) to not meet the standards set forth by CTF and the audit checklist designed by the United States Department of Food and Agriculture (USDA), we must develop a compliance program to correct any deficiencies and are then subject to re-audit.

We are audited by numerous third party auditors throughout the year to verify our compliance with recognized good agricultural practices and good manufacturing practices. Results are posted and performance levels must be achieved to continue business with our customers. There is total accountability to perform. And failure to perform puts our company and our established history as a supplier of fresh tomatoes at risk. And our efforts to set a higher standard for food safety do not translate into a premium for our product given that the market is largely based upon supply and demand. And we have no input into the price the consumer pays for our product. That is a price determined by our customers. The extra costs we incur on behalf of the safe production and marketing of our product are a cost of doing business – one in which we strongly believe.

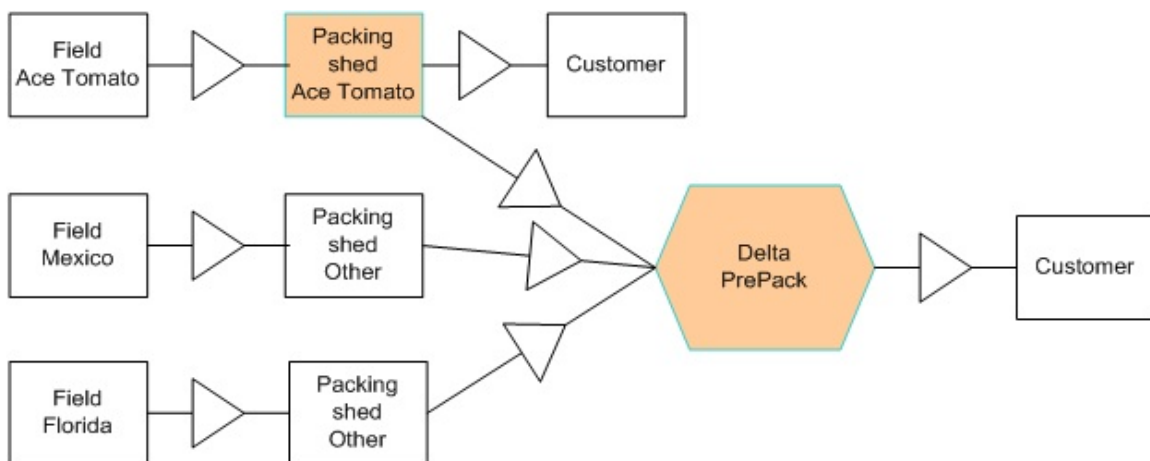
Traceability Protocol

A critical component of a food safety program is having the ability to trace where

the product we packed for a customer comes from - all the way back to the field. Trace-back is not a passive process for any company - it must be aggressively managed during every step of the process. This process requires a commitment from top to bottom within an organization with a culture of accountability no matter what the size of the company may be. Figure 1.0 documents the flow of tomatoes through our companies to our customer. Our customer is not the consumer but other wholesalers or distributors.

Figure 1.0

Product Flow of Ace Tomato and Delta Pre-Pack



It is important to note that we purchase product from California, Florida and Mexico, and we treat our growing partners with the same level accountability as our own fields. Our growing partners are some of the best in our industry in terms of food safety practices and the commitment to maintain the highest standards for our customers. All product we handle must meet a common standard, as product may flow from any of a

number of sources, but with the same end point – our customer. In the narrative that follows, I will document recordkeeping requirements of our companies:

Delta Pre-Pack Traceability Requirements

As a repacker, Delta Pre-Pack may repack our own tomatoes or, as noted, during times that Ace Tomato is not in production, we may repack tomatoes produced by other growers. We employ a number of measures to ensure traceability:

Date Code Requirements

1. Good Manufacturing Practices require the meaningful coding of products sold or otherwise distributed from a manufacturing, processing, packing, or re-packing activity.
2. The code date is utilized to facilitate positive lot identification and the isolation of specific food lots that may have become contaminated or otherwise unfit for their intended use.
3. Records should be maintained for a period of time beyond the expected shelf life of the product, but need not be retained for longer than two years.

Date Code

1. The unique TAG ID number of between four and six numbers contains the following important information: The date we processed the lot and the information necessary to identify from our purchase order the sellers ID lot and purchase dates.
2. Repacked produce into new containers will have printed stickers or a stamp applied to the container with the unique lot number that can be traced to the shipper and back to the origin.

Placement

1. Every package and/or case of product will be identified with the appropriate I.D. code. It will be legible, easily located so as not to confuse it with any other sequence of

numbers or letters placed on the package and/or carton.

2. The lot number will be entered on all appropriate quality control records, production reports, and shipping forms, so that the product can be traced at a later date if necessary

Ace Tomato Traceability Requirements

Product Date Code Requirements

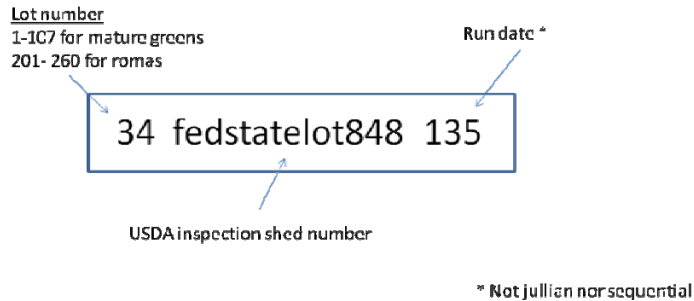
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2. The code date is utilized to facilitate positive lot identification and the isolation of specific food lots that may have become contaminated or otherwise unfit for their intended use.
3. Records should be maintained for a period of time beyond the expected shelf life of the product, but need not be retained for longer than two years.

Date Code

1. The product code contains 3 important pieces of information:
 - The date the product was processed. (date code)
 - The identity of the ranch that produced it. (lot number)
 - Federal State Lot number (packing facility)
2. The Ace Tomato Co. Inc. code date is composed of the pack date that is unique to our company. The first, second and third digits comprise the pack date; 100 for the first run day and 1 will be added for each day packed after and is unique to Ace Tomato Co. Inc.
3. The Ace Tomato Co. Inc. lot number comprises a unique one to three digit number that identifies the ranch, field, planting and variety.

Product Traceability

Ace Tomato Code Label



Placement

1. Every package and/or case of product will be identified with the appropriate code date. It will be legible, easily located so as not to confuse it with any other sequence of numbers or letters placed on the package and/or carton.
2. The lot number will be entered on all appropriate quality control records, production reports, and shipping forms, so that the product can be traced at a later date if necessary.

Steps Taken to Trace and Recall Product

A trace back can be initiated by receiving notification of a potential problem with any box of tomatoes we handle. The entire process can take only minutes using existing software programs. Once the invoice file number is attained from the customer, the following procedures and steps are required to complete the trace back. Access to electronic recordkeeping using *Famous Software*, used extensively in the fresh produce industry, is the basis for illustrating the systems employed by Ace Tomato Company and Delta Pre-Pack.

The following screens are to be accessed:

- Invoicing & Accounts Receivable
- Daily Work
- Order Inquiry

Step One: Enter the invoice number in the order field at the bottom of the order inquiry screen.

Step Two: Select the body option under “view” and details option under “body view”. All purchase order numbers will appear for the shipment in question in the middle of the screen. Take the purchase order number and proceed to the purchase order module in *Famous* as outlined below:

- Purchase Orders
- Purchase Order Inquiry
- Enter the six digit Purchase order number at the bottom of the screen and click on order under “show” and order details under “view”.
- Print the Purchase Order Inquiry screen, which will provide you with both the supplier of the product as well as their purchase order number representing their shipment to us.
- With the information above you will be able to retrieve from the files the bill of lading and the invoice to us from the shipper from which we received the product.
- Contact the shipper to acquire other requested pieces of information by our end user not previously supplied to us by the shipper (i.e., grower, lot #, location of field, harvest date, pack date, etc.) Once this information is gathered, trace back has been completed.

Trace Back Analysis

Trace back, from customer to the field, can rapidly be completed using existing software programs. As a grower and shipper, and also a repacker, we are required to conduct mock recalls that test our ability to trace back product. Trace back is not an option; it is a requirement of doing business. We are able to efficiently and effectively trace back tomatoes that we repack at Delta Pre-Pack whether the tomatoes are produced in California, Florida, or Mexico. There is no variation in our ability to trace back product based upon the origin of the tomato. In the event of any commingling of product, we are able to use the same system and electronic software to track the origin of all finished product to the original grower.

The length of time required by the United States Food and Drug Administration (FDA) to trace the origin of tomatoes that were initially associated with the current salmonella outbreak is disturbing. As a grower, shipper and repacker of fresh tomatoes, we are keenly aware that traceability of fresh tomatoes is certainly possible using existing technology. If FDA's trace back was delayed due to any individual company failing to comply with the Bioterrorism Act that is a failure of that individual company. It is not indicative of the failure of the tomato industry to maintain traceability. It is not indicative of an already established system failing. It is indicative of an individual failing to maintain accountability. Those individuals should be held accountable for their actions.

As is, the integrity of the trace back systems employed in the fresh tomato industry has been questioned by FDA. We challenge FDA's assessment and would ask that an investigation be held into the practices employed by the agency and whether the agency took into consideration the established systems now employed by the fresh tomato industry. As noted, traceability is a requirement of doing business. It is not an

option for us. And I can only assume we are not alone in our position on traceability, given that our customers demand it. If we cannot meet the demands of our customers, we risk losing that customer to a competitor, and there are many within the fresh tomato industry.

The Financial Implications of FDA's Trace Back

Although Ace Tomato Company was not in production at the onset of this outbreak, Delta Pre-Pack was marketing fresh tomatoes from both Mexico and Florida. The financial consequences of the inconclusive FDA trace back increased greatly as the Center for Disease Control (CDC) expanded their warning beyond the original states of New Mexico and Texas. As the warning was expanded to all 50 states, our suppliers in Florida and Mexico were considered “suspect” as they remained within the scope of FDA's trace back. We have full confidence in our suppliers as we apply the same standard to the product they grow as we place on ourselves. It is important to note that we work closely each year with our growing partners along with our customers calibrating our food safety standards. This means we are on-site in the fields and in the packing sheds verifying the protocols we have established in an effort to gain agreement between ourselves and our customers that the supply chain is as safe as possible. But that confidence wasn't sufficient to retain our customers. Due to the blanket warnings that Mexico and Florida were not safe, our customers were forced to require that we source from other states outside of our normal supply chain. In effect, we moved away from a supply chain that both our customers and ourselves had worked hard to ensure was the safest possible. We had to dispose of several hundred thousand dollars worth of perfectly good tomatoes. And, at a moments notice, we sourced California tomatoes – from a competitor of ours – to fill our customers' needs and at greatly added expense. And now

months later, there's strong evidence to conclude that tomatoes are not the source of this outbreak. While we can appreciate the need to maintain the safety of the food supply, we cannot help but ask what steps will be taken to prevent this from happening again?

Recommendations to the Committee

As a grower, shipper, and repacker of fresh tomatoes, we are mandated to maintain traceability. It is required not only as condition of our membership in California Tomato Farmers but also under the Bioterrorism Act of 2002 and by our customers. We believe that the FDA's public comments related to complex traceability of the fresh tomato industry warrant further investigation by a joint industry/government task force to ascertain what inadequacies were discovered or perceived by FDA.

As a grower, shipper, and repacker of fresh tomatoes, we support the need to maintain traceability throughout the supply chain. Existing technologies are sufficient to maintain traceability, however, this requires recordkeeping by all who handle fresh tomatoes including end-users. There is a need for mandated regulation at all levels not simply directed at the grower and shipper. As a member of California Tomato Farmers, we have already documented our support of mandatory standards. We recommend that Congress consider the mandated food safety programs established by the fresh tomato industry in response to the need to strengthen existing trace back systems.

As a grower, shipper and repacker of fresh tomatoes, we urge that Congress address the economic significance to all levels of the tomato supply chain from broad-based warnings that may unfairly associate safe tomatoes with foodborne illness. Consumption of fresh tomatoes averages nearly twenty pounds per person annually in the United States. In its proper perspective, this means nearly all of us eat one serving of fresh tomatoes each week. As one of the most popular fresh produce items, tomatoes will

always come under scrutiny in any food safety outbreak simply due to the statistical probability that we've all had a tomato to eat. As you know, there has been no conclusive evidence that tomatoes were the source of this most recent outbreak. Steps must be taken to ensure that if tomatoes are not conclusively found to be a source of this outbreak that the tomato industry is cleared of any association with this most unfortunate outbreak. And that in the future, consideration is given to the development of a more effective warning system. As is, we've caused undue alarm to consumers of fresh tomatoes and undue financial hardship on an industry that contributes better than one billion dollars in sales to the United States economy each year.

This concludes my testimony and I welcome any questions that the Committee may have. Thank you again for this opportunity to testify before you.